

Rhodamine-123 to substantially decrease the level of prostate specific acid phosphatase in the blood of the patient.

27. A method for treating a patient with prostate cancer comprising dissolving Rhodamine-123 in a solvent which includes ethyl alcohol to form a stock solution, diluting the stock with water to form a treatment solution which includes Rhodamine-123, water and ethyl alcohol, administering the treatment solution to the patient in an amount sufficient to effect *in vivo* destruction of prostate cancer cells, measuring the patient's prostate specific acid phosphatase level before and after treatment, and administering sufficient Rhodamine-123 to substantially decrease the level of prostate specific acid phosphatase in the blood of the patient.

28. A method for treating a patient with carcinoma comprising intravenous administration of a solution of Rhodamine-123 in ethyl alcohol and water in an amount sufficient to effect *in vivo* destruction of carcinoma cells.

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29. (New) A method for treating a patient with carcinoma, the method comprising administering Rhodamine-123 to the patient in an amount sufficient to effect *in vivo* destruction of carcinoma cells.

30. (New) A method for treating a patient with prostate cancer, the method comprising administering Rhodamine-123 to the patient in an amount sufficient to effect *in vivo* destruction of prostate cancer cells.

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#### REMARKS

Reconsideration of this application is requested.

Claims 1-8, 17-19, and 25-27 are allowed in view of the declaration (Paper No. 12) dated October 30, 2001 by Lawrence W. Jones, M.D.

The Final Action dated 10/31/2002 rejected claims 20-24 and 28 as unpatentable over the 1983 Bernal et. al. reference because the October 30, 2001 declaration by Dr. Jones "is directed to treating only prostate cancer and not other carcinomas." Submitted with this amendment is

a declaration dated March 17, 2003 by Dr. Jones, which is not limited to treating only prostate cancer. For example, in the accompanying declaration by Dr. Jones, he states (in paragraph 11):

“Based on my experience and the skepticism of colleagues with respect to the possible efficacy of rhodamine-123 for treating carcinoma, the 1983 Bernal et al. reference does not provide a reasonable expectation that rhodamine-123 would be any more effective for treating human carcinoma than any of many other agents which showed promising laboratory results, and failed to be therapeutic. The drug industry and the medical profession have spent millions of dollars and thousands of research hours seeking effective therapy for various forms of carcinoma. By any objective standard, if the Bernal et al. reference had actually created a reasonable expectation that treatment with rhodamine-123 would prolong the life of carcinoma victims, the compound would have been put to wide use instead of being dismissed as clinically inadequate by other workers in that field.”

In view of the accompanying declaration of Dr. Jones, claims 20-24 and 28 are now allowable. The same is true for new claims 29 and 30.

The rejection of claims 9-16 as “unpatentable over Arcadi references (1986) and (1990) of record” should be withdrawn. As stated in the Office action dated 03/11/2002 (page 2), claims 1-8, 17-19, and 25-27 were

“allowed in view of the Dr. Jones declaration, Paper No. 12. Dr. Jones states on page 3, paragraph no. 11 that “base[d] on my experience and the skepticism of colleagues with respect to the possible efficacy of rhodamine-123 for treating prostate cancer, the work published by Dr. Arcadi [in] 1986 and 1990 does not provide a reasonable expectation that rhodamine-123 would be any more effective for combating human prostate cancer than any of many other agents which should [sic] [showed] promising laboratory results, and failed to be therapeutic . . . . By any objective standard if Dr. Arcadi in [the] 1986 and 1990 articles had actually created a reasonable exportation [sic] [expectation] that treatment with rhodamine-123 would prolong the life of prostate cancer victims, the compound would have been put to wide use instead of being dismissed as clinically inadequate by other workers in that fields [sic].”

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Since the 1986 and 1990 articles by Dr. Arcadi did not provide a reasonable expectation that rhodamine-123 would be any more effective for combating human prostate cancer than any of many other agents which have shown promising laboratory results, one skilled in carcinoma chemotherapy would not find motivation to make a pharmaceutical composition such as that defined by claims 9-16.

In view of the accompanying March 17, 2003 declaration by Dr. Jones, and the above explanations, claims 9-16, 20-24 and 28-30 are now in condition for allowance.

Respectfully submitted,

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